

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA

CLERK'S OFFICE U.S. DISTRICT COURT  
AT ABINGDON, VA  
FILED

DEC 21 2020

JULIA C. DOLLEY, CLERK  
BY:  DEPUTY CLERK

MELINDA SCOTT,           )  
PLAINTIFF,                )  
v.                            )  
                              )  
WISE COUNTY DEPT.       )  
of SOCIAL SERVICES,     )  
et al                        )  
DEFENDANTS.             )

Case No. 2:20cv14

MOTION TO QUASH AND DISMISS  
DEFENDANT'S REQUEST TO VACATE PREVIOUS ORDERS AND FOR THE  
ISSUANCE OF A PROTECTIVE ORDER/STAY/OTHER RELIEF

*COMES NOW* the Plaintiff, in response to Defendant's "Motion for Partial Stay, Protective Order and Other Relief" and *his* Memorandum and states in her defense as follows:

**I. Defendant's motion is Prejudicial to the Plaintiff**

- (a) There is a standing order permitting discovery. This court granted Plaintiff permission to proceed with discovery on November 3, 2020 (docket no. 17).
- (b) This court granted the Plaintiff leave to re-file her Motion to Compel on Thursday December 17, 2020 (Docket No. 34). Plaintiff has revised her prior Motion to Compel and attached an accompanying brief to re-file it with the court.
- (c) It is prejudicial to the Plaintiff not to enforce the Orders.

- (d) As of the filing of this Motion, there is a standing Order of Default and Defendant is not entitled to bring a defense at this time. The Defendant's Motion to Set Aside is insufficient as a matter of law<sup>1</sup>, and Defendant's Motion to Dismiss as a defense is currently barred by the Order of Default<sup>2</sup>.
- (e) If Defendant is concerned about the other issues that they present in their Motion to Dismiss the proper remedy is to appeal the case, not attack the Plaintiff's rights to file.

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<sup>1</sup> Defendant's objections to service and the Default fail on a number of grounds: (A) The Summons cannot be invalidated solely upon the omission of the court name. "When there is *actual notice*, every technical violation of the rule or failure of strict compliance may *not invalidate* the service of process" (emphasis added) (*Wade v. Alamance County Department Of Social Services, Dist. Court, MD North Carolina 2020 citing Armco, Inc. v. Penrod-Stauffer Bldg. Sys., Inc., 733 F.2d 1087, 1089 (4th Cir. 1984)*) (B) Upon testing the sufficiency of the Motion to Set Aside Default, even when the Plaintiff would later respond to the "meritorious defenses" component of the Motion to Dismiss, the Defendant has not met the other components necessary to relieve him of the Default entered. The Defendant has to demonstrate *all 5* of the requirements to set aside the Default: (1) a possible meritorious defense (2) promptness of the defaulting party (3) the personal responsibility of the defaulting party (4) the prejudice to the other party and (5) whether there is a history of dilatory action. This component alone is enough to deny the Motion to Set Aside Default. As of this date, Defendant Moon has given no justifiable reason for how he lost the Summons and Complaint. Under the legal standards of the 4<sup>th</sup> district, if a Defendant cannot explain how they lost the Summons and Complaint, they are not entitled to relief of the Default (*Park Corp. and Colleton Preparatory Academy*) (*Park Corp. v. Lexington Ins. Co., 812 F. 2d 894, 897 (4th Cir. 1987)* and (*Colleton Preparatory Academy v Hoover Universal Inc.* 616 F 3d. 413 Court of Appeals (2010)) (C) Defendant cannot demonstrate he had a valid reason of "excusable neglect" under Rule 60(b) for being relieved of any Order.

<sup>2</sup> This is not Plaintiff's full reply to Defendant's Motion to Dismiss. Plaintiff's full response to Defendant's Motion to Dismiss will be filed before the December 31, 2020 deadline.

## II. Default entry was entered properly

- (f) Beyond the reasons stated above that Defendant's Motion to Set Aside Default fails as a matter of law, the Default entry was ordered after a "review of the record" (docket no. 19). Defendant's attempt to challenge the Default order by scrutinizing the content of Plaintiff's *past* lawsuits is really a disguised challenge upon judicial procedures.
- (g) This court *reviewed the record of this current 2020 lawsuit* and determined that the contents, facts and elements of Plaintiff Scott's Complaint were sufficient to issue a Default.
- (h) The Summons cannot be invalidated simply because of the omission of a name<sup>3</sup>
- (i) Defendant Moon was properly served the Summons and Complaint as an LLC at his business address according to Rule (4)(e)(1) and Rule 5(b)(2)(C)<sup>4</sup>
- (j) Defendant Moon was also on constructive notice that a lawsuit had been filed against him<sup>5</sup>.

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<sup>3</sup> "When there is *actual notice*, every technical violation of the rule or failure of strict compliance may *not invalidate* the service of process" (emphasis added) (*Wade v. Alamance County Department Of Social Services, Dist. Court, MD North Carolina 2020 citing Armco, Inc. v. Penrod-Stauffer Bldg. Sys., Inc., 733 F.2d 1087, 1089 (4th Cir. 1984)*)

<sup>4</sup> Defendant Moon has always held himself out to be an LLC. On his website he labels his business "Lolcow, LLC". He was formerly registered as a business in Florida as "Lolcow, LLC". On March 17, 2019 Joshua Moon published on Kiwi Farms the following statement: "My company is contained within a Florida company. If you need an address to send physical documents to this works. Lolcow LLC 913 Beal Pkwy NW, Suite A-1017, Fort Walton Beach, FL 32547." (<https://kiwifarms.net/threads/2019-03-17-new-zealand-police-we-would-like-to-preserve-any-posts-and-technical-data-including-ip-addresses-email-addresses-etc.54376/>). As a sole proprietor (business owner) he is one and the same as Lolcow, LLC.

<sup>5</sup> (A) Even before the Defendant received the notice of Default in the mail, Defendant Moon already knew a lawsuit had been filed in which he was named a Defendant. The Fourth District has stated that *actual or constructive notice* that a lawsuit is forthcoming is a factor that makes a Defendant personally responsible to act (*Kramer v. Jotun Paints, Inc., 183 F. Supp. 2d 795 -*

### **III. Defendant's Motion is Unconstitutional**

#### **and would violate Plaintiff's 14<sup>th</sup> Amendment rights**

- (k) Defendant's motion is an effort to diminish the Plaintiff's equal access to the courts, a right given to her by the 14<sup>th</sup> Amendment.
- (l) The Supreme Court has consistently ruled that the 14<sup>th</sup> Amendment applies to federal courts. The Plaintiff was born in the United States and is a citizen of the United States of America. She has the same privileges to have access to the courts in the same manner as any other citizen.

### **IV. False allegations against Plaintiff**

- (m) Plaintiff never once used the term "judgment proof". Plaintiff also never said she had "no fear" of the court's lawful powers. Nothing the Plaintiff said was a "confession". Plaintiff said everything in her final email well knowing the Defendant would introduce them as Exhibits before the court. Defendant's counsel has attributed words to the Plaintiff that she never said.

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Dist. Court, D. Maryland 2002; *Wilkins v. Montgomery*, 751 F. 3d 214 - Court of Appeals, 4th Circuit 2014). (B) Joshua Moon even stated online that he intended to reply to the lawsuit on July 10, 2020. Joshua Moon had constructive notice that the lawsuit was forthcoming to be served upon him. <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-6888288> (C) Other online users alerting him he had a lawsuit forthcoming: (1) <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-6886434>; (2) <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-6886456>; and Posts where Joshua Moon is involved in the threads acknowledging receipt of lawsuit: (1) <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-6887335>; (2) <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-6888288>

(n) Defendant's counsel has attempted to take Plaintiff's comments out of context.

Defendant's counsel is crafting words in order to make them appear they say something they do not actually say. Further, the *context* of the Plaintiff saying "what are you gaining...?" is: that the Defendant's dilatory actions demonstrated by arguing with the Plaintiff about a *previously issued Order* regarding discovery with his desired result to be the escalation of a potential award of attorney's fees still means nothing being accomplished because Plaintiff does not have the ability to pay. Defendant's counsel's race to an award of attorney's fees is a futile exercise in trying to engage the Plaintiff in a power struggle.

(o) Defendant, by counsel, has repeatedly wrongfully accused the Plaintiff of filing "frivolous lawsuits". Each of her former lawsuits had valid causes of action. What they lacked were pertinent *truthful* details that Plaintiff Scott unintentionally omitted.

(p) Defendant, by counsel, has repeatedly harped on former lawsuits the Plaintiff has filed *without presenting a full or even accurate set of facts*. Defendant, by counsel, has repeatedly created a false narrative about the facts contained within former lawsuits. The former lawsuits were not claims of IIED. They were Appropriation, Torts of Defamation and False/Negative Light, and 4<sup>th</sup> Amendment violations as a State Actor. This is completely irrelevant to new claims of I.I.E.D resulting from the last 2 years<sup>6</sup> (July 9, 2018-July 8, 2020). Further, those former lawsuits were dismissed *without prejudice*. Even if some of the elements or facts of those former lawsuits were included in the 2020

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<sup>6</sup> Virginia's Statute of Limitations on IIED .

suit, this is not barred by any doctrine or law since those lawsuits were dismissed *without prejudice*.

**V. Defendant has no good cause to delay discovery**

- (q) *Guerrero v. Weeks* is irrelevant here because Plaintiff's Motion to Compel is based upon a previously issued court Order, not delaying and increasing costs.
- (r) Plaintiff denies that her Motions serve no useful purpose. Everything she has filed is relevant to the case and ongoing issues around the case.
- (s) Defendant seeks to delay discovery without proper cause.
- (t) Defendant seeks to hide the discovery information because he is trying to conceal evidence and pertinent names to avoid service upon those "Doe" Defendants.

**VI. No valid cause under Rule 60(b) to set aside the Order of November 3, 2020**

- (u) Defendant's request to set aside the Order of November 3, 2020 is prejudicial to the Plaintiff. Plaintiff has equal rights under the 14<sup>th</sup> Amendment. That includes an *equal* right to be issued an entry of Default and Discovery Order according to the laws of the United States of America and Federal Rules of Civil Procedure.
- (v) There is absolutely no valid reason or good cause presented by Defendant to set aside the Order of November 3, 2020 (docket no. 17). Rule 60(b) sets the standards for being relieved of an order, and Defendant does not set forth any valid reason under Rule 60(b) to be relieved of the order. Defendant has presented no valid reason whatsoever that this Order should be set aside.

**(w) Joshua Moon is not paying all of his attorney fees**

- (x) Defendant. Joshua Moon has launched a fundraising campaign to garner money from his website users to pay for his legal fees<sup>7</sup>.

**VII. No legal basis for delaying or diminishing the Plaintiff's rights for discovery because of Defendant's "travel" and "holiday" plans**

- (y) Only December 25 is listed on the Western District of Virginia's holiday schedule.

Otherwise, the court is open for business.

- (z) It's beyond the Plaintiff's control that the issues of the case have run over into December.

If Defendant didn't want discovery to be dealt with in December, he could have responded to the discovery requests in November after the 14 day deadline. Nevertheless, the fact that it is now the month of December doesn't require the Plaintiff to surrender or diminish her rights to pursue discovery. There is no case law or legal precedent to support delaying someone's rights because it is December.

- (aa) There is no legal basis or precedent for diminishing someone's right to file for "travel and holidays" and that is why the Defendant's memorandum is devoid of any case law to support making a decision around "travel and holidays".

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<sup>7</sup> An article published on KiwiFarms.net entitled "Regarding a lawsuit from an insane woman", with "woman", referring to the Plaintiff, in which Defendant is running a fund raising campaign for his legal fees: <https://kiwifarms.net/threads/2020-12-07-scott-v-moon-mk-vi.80988/>; and also [<https://kiwifarms.net/threads/biting-the-hand-that-feeds.80828/>] where Joshua Moon says "There are now civil court problems, but they will be dealt with, and *the community will help*." (emphasis added). There is reason to believe many of his users are paying for his legal fees.

(bb) It's unconstitutional to diminish the rights of the Plaintiff to file simply because the Defendant's religion requires *him* to travel for *his* holidays. The Defendant is subsequently trying to impose his religious holiday schedule onto the court and onto the Plaintiff. If Defendant's counsel cannot keep up with his work load because of *his* holidays then *he* has to make adjustments. It's prejudicial to the Plaintiff to assume that she needs to accommodate *his* holidays.

**VIII. Content of Plaintiff's Motion not "scandalous":**

**Death threats, Harassment and serial killers on KiwiFarms.net**

(cc) On June 30, 2018 and July 1, 2018 an administrative email from KiwiFarms.net sent harassing emails full of curse words to the Plaintiff stating that her address would be up on Kiwifarms.net "forever". The admin stated: "Your address is out there for everyone to use and exploit. And if you have kids, we'll dox them too. We've already published kid's pictures and details here and on lolcow.farm". Exhibit A (part 1 and part 2) are included.

(dd) Plaintiff has valid cause for being concerned about her postmarks being used by KiwiFarms.net to put her under surveillance<sup>8</sup>. Public disclosure and surveillance of the Plaintiff's whereabouts in order to intimidate and harass the Plaintiff has been a long

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<sup>8</sup> This includes Kiwi Farms loyal fan base users persistent mis-use of re-posting court documents and envelopes from Pacer (a function normally left to the government); as a way to track the Plaintiff's whereabouts, not simply to re-post the cases for general interests



pattern of behavior from users of KiwiFarms.net, going back to 2018<sup>9</sup>. This pertinent detail in her recent motion was necessary.

- (ee) Kiwi Farms website and its users have been linked to several serial killer plots including Lindsay Kanitha Souvannarath (of Nova Scotia)<sup>10</sup>, William Atchison (of the USA)<sup>11</sup>, and the "Christchurch Killer" (of New Zealand)<sup>12</sup>. KiwiFarms.net loyal fan base has chronically consisted of serial killers. It is a pattern of behavior on their website.

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<sup>9</sup> Posts where users of KiwiFarms.net made comments to track the Plaintiff's whereabouts: (A) "Do you still in Coeburn, VA?" <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-6153593> (B) Comments with postal postmarks showing Plaintiff's whereabouts: (1) <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-7952270>; (C) Comment from user stating they intend to use lawsuits to track Plaintiff's whereabouts and share it collectively on their site again: "Well, we won't know what county you live in 'til your next lawsuit." <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-7597510>; (D) Users attempting to use public search records to track the Plaintiff: "If anyone is interested, here's where to find the doxx (I can't access it from outside USA)" (<https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-6902276>)

<sup>10</sup> (a) <https://www.alternet.org/2015/02/curious-story-why-canadian-govt-refused-call-mass-murder-plot-terrorism/>; (b) <https://www.splcenter.org/hatewatch/2015/02/18/illinois-woman-neo-nazi-leanings-charged-canadian-mass-murder-plot?>; (c) <https://www.theguardian.com/world/2018/apr/20/lindsay-souvannarath-valentines-day-shooting-plot-canada-life-sentence>; (d) <https://knowyourmeme.com/memes/events/halifax-mass-shooting-plot>

<sup>11</sup> (a) <https://www.thedailybeast.com/new-mexico-school-shooter-had-secret-life-on-pro-trump-white-supremacy-sites>; (b) <https://eu.daily-times.com/story/news/crime/2018/04/17/aztec-high-school-shooting-investigation-william-atchison/513013002/>; (c) [https://schoolshooters.info/sites/default/files/atchison\\_online\\_1.0.pdf](https://schoolshooters.info/sites/default/files/atchison_online_1.0.pdf)

<sup>12</sup> (a) <https://www.nzherald.co.nz/nz/christchurch-mosque-shootings-website-kiwi-farms-refuses-to-surrender-data-linked-to-accused/YMW2OF5GE3C7EYAMJAPSDANKI/>; (b) <https://www.news.com.au/technology/online/website-kiwi-farms-refuses-to-surrender-data-linked-to-accused-christchurch-terrorist-brendan-tarrant/news-story/46d3c925ef84b24dde6194c42b3c2241>; (c) <https://www.oneangrygamer.net/2019/03/new-zealand-police-request-personal-data-from-kiwifarms-users-who-shared-shooter-manifesto-video/80039/>

(ff) There have been investigations from the FBI regarding threatened homicidal criminal activity on the website<sup>13</sup>.

(gg) KiwiFarms.net loyal fan user base demonstrates a pattern of behavior that has also been identified by others as cyber bullying, cyber stalking and cyber harassment<sup>14</sup>. The behavior is not exclusive to the Plaintiff. Defendant Moon's website "Kiwifarms.net" has a pattern of behavior of encouraging cyber bullying to intimidate and harass people online.

(hh) The website KiwiFarms.net is created to encourage cyber bullying. For example, KiwiFarms.net also made a thread to bully a Canadian teenager named Julie Terryberry<sup>15</sup>. She ended up committing suicide as a young teenage girl, only months after her thread on KiwiFarms.net began<sup>16</sup>.

(ii) Plaintiff has previously received death threats from the same anonymous user named "SIGSEGV" that is also the same profile that has been recently investigated by the FBI and law enforcement for death threats (surrounding the recent US Presidential election)<sup>17</sup>. This profile is one of the "true and honest fan[s]" of KiwiFarms.net. The "true and honest fan" designation on their website designates that they are deeply involved in the site.

Exhibit B is attached.

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<sup>13</sup> <https://kiwifarms.net/threads/biting-the-hand-that-feeds.80828/>

<sup>14</sup> <https://nymag.com/intelligencer/2016/07/kiwi-farms-the-webs-biggest-community-of-stalkers.html>

<sup>15</sup> <https://spotlight-newspaper.co.uk/uk-news/03/02/revealed-banned-neo-nazi-terror-group-national-action-has-international-links/>

<sup>16</sup> <https://kiwifarms.net/threads/how-our-community-handles-death.22068/>

<sup>17</sup> <https://kiwifarms.net/threads/biting-the-hand-that-feeds.80828/>

(jj) John Doe 1, another “true and honest fan” of KiwiFarms.net, posted a picture on KiwiFarms.net with a man holding a gun pointing forward to insinuate he intended to do bodily harm to the Plaintiff<sup>18</sup>. Exhibit C is attached.

## **XXII. Intimidation a common tactic from KiwiFarms.net**

(a) Just before Defendant’s motion for a Protective Order/Stay/Other Relief, anonymous users on KiwiFarms.net stated to the Plaintiff that if court personnel didn’t like the Plaintiff on a personal level, the KiwiFarms.net online anonymous user community could go so far as to do something illegal to hurt the Plaintiff’s case because the Plaintiff would “never be able to prove it”<sup>19</sup>.

## **IX. Plaintiff motions do not violate Local Rule 11(C)**

(b) Defendant wrongly claims Plaintiff’s Motions do not comply with Local Rule 11(c)

(c) All of Plaintiff’s motions comply with local Rule 11(c)

(d) Rule 11(C)(2) states that “a separate brief is not required when a motion itself contains the legal and factual argument necessary to support the motion”

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<sup>18</sup> John Doe 1 posted the picture toward a profile “Tamar Yael BatYah”, which is a nickname used by Plaintiff Scott

<sup>19</sup> “It influences everything courts do from overlooking small mistakes, to committing outright illegal acts to hurt you” (<https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-7979130>); “Here's the thing—even if it's "illegal", you will never be able to prove it. You will just not get the potential benefit of being liked. Sometimes that is the difference between winning and losing” (<https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-7977577>)

## **X. Other**

- (e) In the time it took the Defendant to file the Motion and Memorandum for “Protective Order, Partial Stay and other Relief”, and attached Exhibits, the Defendant could have prepared and sent the discovery documents requested by Plaintiff.

## **XI. Defendant’s glaring bias against Pro-se Litigants**

- (f) Defendant’s motion is improperly calculated to be a jab at the Plaintiff. In fact, Defendant has purposely adopted language from KiwiFarms.net to cast the Plaintiff in a false light before this court and to try to irritate the Plaintiff. Defendant has already demonstrated in previous pleadings that he is reading the KiwiFarms.net threads, as indicated by his footnotes in prior pleadings and motions. Here in this motion Defendant has adopted the terms “motion-happy”<sup>20</sup>, “serial litigant”<sup>21</sup>, and “never being served”<sup>22</sup> to mimic KiwiFarms.net threads. This seems quite improper in the midst of an I.I.E.D case.

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<sup>20</sup> <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/> refers to the Plaintiff as “sue happy”

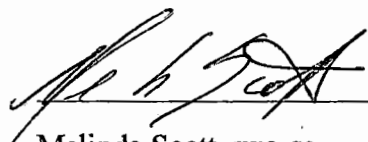
<sup>21</sup> <https://kiwifarms.net/threads/2020-12-07-scott-v-moon-mk-vi.80988/> refers to the Plaintiff as “serial litigant”

<sup>22</sup> <https://kiwifarms.net/threads/melinda-leigh-scott-marshall-castersen.32118/post-2421518> refers to service of former lawsuits

(g) Defendant's motion demonstrated that Defendant has a bias against pro-se litigants, which appears throughout all of his pleadings and motions. Especially this sentence within his most recent motion now presented before this court: "Virginia's federal jurists are no strangers to the difficult task of how to dissuade pro-se litigants..." Defendant's counsel has repeatedly made inflammatory comments to create an "us and them" approach to pit himself in special favor with the courts as an attorney while trying to marginalize the Plaintiff as a pro-se litigant.

**WHEREFORE**, Plaintiff respectfully moves this court to grant Plaintiff her 14<sup>th</sup> Amendment right to equal access to the courts by granting her motion to quash and dismiss the Defendant's request for a Protective Order, Stay, and Other relief. Plaintiff also respectfully moves this court to uphold their order of November 3, 2020 permitting Plaintiff to begin discovery. Plaintiff respectfully moves this court to vacate any previous Order granting Defendant's Motion for a Protective Order, Stay and Other relief.

I ASK FOR THIS,

  
\_\_\_\_\_  
Melinda Scott, *pro-se*

PO BOX 1133-2014PMB87

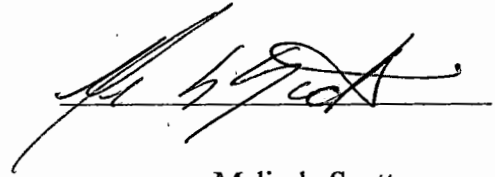
Richmond, VA 23218

mscottw@gmu.edu

540-692-2342

CERTIFICATE OF SERVICE

I hereby certify that I have both mailed a copy of this MOTION TO QUASH AND DISMISS to the Defendant, by counsel, Matthew D. Hardin, VSB #87482 1725 I Street NW, Suite 300 Washington, DC 20006 and matthewdhardin@gmail.com; EXHIBITS only to matthewdhardin@gmail.com on this 21<sup>st</sup> day of DEC., 2020.

A handwritten signature in black ink, appearing to read 'Melinda Scott', written over a horizontal line.

Melinda Scott, *pro-se*

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